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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,820	04/15/2004	Jeffrey P. Few	FLOWD.67988	6677
27629	7590	12/28/2004	EXAMINER	
FULWIDER PATTON LEE & UTECHT, LLP 200 OCEANGATE, SUITE 1550 LONG BEACH, CA 90802			HUYNH, KHOA D	
			ART UNIT	PAPER NUMBER

3751

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/824,820	<b>Applicant(s)</b> FEW, JEFFREY P.	
	<b>Examiner</b> Khoa D. Huynh	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 24, 25 and 27-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 24, 25, 27-34 and 36-42 is/are rejected.
- 7) ☒ Claim(s) 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/15/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement, page 3, filed 4/15/04 fails to comply with 37 CFR 1.98(a)(1). It is a copy of a previously Notice of References Cited from another application. It is not acceptable since it does not have a blank space for the examiner to initial and the correct application number is not listed the page. It (page 3) has been placed in the application file, but the information referred to therein has not been considered.

### ***Specification***

1. The disclosure is objected to because of the following informalities: page 37, line 4, the recitation "coupling 222" should be changed to --coupling 228--, and line 7, the recitation "used fluid tank 28" should be changed to --used fluid tank 40--. Appropriate correction is suggested.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 24, 25, 27-32, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon (6035902) in view of Ohta et al. (4938315) and Viken (6223790).

The Dixon reference discloses a fluid servicing apparatus for exchanging fluid with a vehicle having a steering wheel (34,36) and a power steering fluid reservoir (14) with an upper fluid level (72). The apparatus includes a use fluid receptacle (60) coupled to a drain conduit (at 42, 42b) including a drain pump (50) and a first extension terminating in a free end (the tip end of element 42), a fresh fluid source (64) coupled to a supply conduit (at 44,44b) including a supply pump (52) and a second extension terminating in a free end (the tip end of element 44). As schematically shown in Figure 2, the free ends of the first and second extensions are placed in the power steering fluid reservoir below the upper fluid level. The drain and supply pump is being activated alternately to drain and fill the power steering fluid reservoir. The steering wheel is being turned to a full extent (one extreme) in a first direction and to another full extent in the opposite direction to allow the removal of all of the fluid (col. 5, lines 10-40). And the process is repeated, while the new fluid is being observed, until the new fluid replaces the used fluid.

The Dixon reference DIFFERS in that it does not specifically include a cabinet as claimed. Attention, however, is directed to the Ohta et al. reference which discloses another fluid servicing apparatus having a cabinet which houses a use fluid receptacle (15A) and a fresh fluid source (15B). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Dixon reference by employing a cabinet, in view of

the teaching of Ohta et al., in order to conveniently store and transport the use fluid receptacle and the fresh fluid source.

The Dixon reference also DIFFERS in that it does not specifically include a remote actuator as claimed. Attention, however, is directed to the Viken reference which discloses another fluid servicing apparatus having a remote actuator (at 633 in Fig. 8) for actuating the pumps. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Dixon reference by employing a remote actuator, in view of the teaching of Viken, in order to conveniently allow an operator to control and operate the apparatus remotely.

Regarding claims 24, 27, 28 and 40, the method as claimed would be inherent during the normal use and operation of the modified Dixon.

The modified Dixon also DIFFERS in that it does not specifically include a drain valve and a supply valve as claimed. Attention, however, is also directed to the Ohta et al. reference which discloses a fluid servicing apparatus having a cabinet which houses a use fluid receptacle (15A) and a fresh fluid source (15B). A drain valve (V1) is coupled to the drain conduit (16A), and a supply valve (V2) is coupled to the supply conduit (16B). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Dixon reference by employing a drain valve coupled to the drain conduit and a supply valve coupled to the supply conduit, in view of the

teaching of Ohta et al., in order to provide additional safety features to prevent inadvertently spilling from the pumps.

Regarding claims 25, 30, 31, 32, 41 and 42, the method as claimed would be inherent during the normal use and operation of the modified Dixon.

The Dixon reference also DIFFERS in that it does not specifically include a control board as claimed. Attention, however, is also directed to the Ohta et al. reference which discloses a fluid servicing apparatus having a cabinet which houses a use fluid receptacle (15A) and a fresh fluid source (15B). A control board (at 20) is provided on the cabinet and operably coupled to the pumps. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Dixon reference by employing a control board, in view of the teaching of Ohta et al., in order to provide an additional control means which conveniently allows an operator to control and operate the apparatus while standing next to the cabinet. Furthermore, using the remote actuator in conjunction with the control board is readily recognized since such combination of such controls provide the operator with options of which controller the operator wishes to used on the basis of the intended situations (close at hand or remote location).

Regarding claims 29 and 39, the method as claimed would be inherent during the normal use and operation of the modified Dixon.

4. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Dixon in view of Rome et al. (6360791).

The modified Dixon reference DIFFERS in that it does not specifically include a filter on the drain side as claimed. Attention, however, is directed to the Rome et al. which discloses another fluid exchange system (Fig. 2) having a filter (at 210) located on the drain side. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Dixon reference by employing a filter on the drain side, in view of the teaching of Rome et al., to prevent unwanted particles from blocking the drain path.

Regarding claim 33, the method as claimed would be inherent during the normal use and operation of the modified Dixon.

5. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Dixon in view of Peralta (5372219).

The modified Dixon reference DIFFERS in that it does not specifically include a filter on the supply side as claimed. Attention, however, is directed to the Peralta reference which discloses another fluid exchange system (Fig. 4) having a filter (at 39) located on the supply side. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Dixon reference by employing a filter on the supply side, in view of the teaching of Peralta, to prevent suspended debris from blocking the supply path.

Regarding claim 34, the method as claimed would be inherent during the normal use and operation of the modified Dixon.

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6. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Dixon in view of Erwin (6170505).

The modified Dixon reference DIFFERS in that it does not specifically disclose that the extensions of the conduits are transparent as claimed.

Attention, however, is directed to the Erwin reference which discloses an automotive-fluid replacement apparatus having a plurality of fluid transfer lines (at 14, 16, 18, 20). The Erwin reference also discloses that the lines are transparent (col. 4, lines 22-24). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Dixon extensions by making them transparent, in view of the teaching of Erwin, to visually verify the flow of fluids as well as observe the color of draining fluid and contrast it with the color of the fresh fluid.

Regarding claim 36, the method as claimed would be inherent during the normal use and operation of the modified Dixon.

7. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Dixon in view of Sell (5615704).

The modified Dixon reference DIFFERS in that it does not specifically include a clamp with a holder as claimed. Attention, however, is directed to the sell reference which discloses a hoist or winch device having a push buttons or switches pendant (Fig. 2) mounted on a slotted cradle (at 30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Dixon apparatus by employing



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a cradle or clamp, in view of the teaching of Sell, in order to conveniently store the remote actuator when it is not in use. Furthermore, as schematically shown in Fig. 1, the pendant is mounted to a slotted cradle (at 30), and one skill in the art would be able to recognize that the cradle can be used as a holder for hanging the coiled hose if needed.

Regarding claim 37, the method as claimed would be inherent during the normal use and operation of the modified Dixon.

8. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Dixon in view of Tarabocchia (6374872).

The modified Dixon reference DIFFERS in that the used fluid receptacle does not specifically include a second opening as claimed. Attention, however, is directed to the Tarabocchia reference which discloses an automotive-fluid replacement apparatus having a used fluid receptacle (about 80) having a second opening (where spout 82 connected) for dumping used fluid into another receptacle. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Dixon used fluid receptacle by employing a second opening, in view of the teaching of Tarabocchia, in order to empty the used fluid (by means of gravity) when the container is full without operating the system.

Regarding claim 38, the method as claimed would be inherent during the normal use and operation of the modified Dixon.

***Allowable Subject Matter***

9. Claim 35 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Double Patenting***

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Newly added claims 27 and 29 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,722,398; newly added claims 30-32 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3-5, respectively of U.S. Patent No. 6,722,398; newly added claims 33 and 34 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9 and 10, respectively of U.S. Patent No. 6,722,398; newly added claim 36 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 12 of U.S. Patent No. 6,722,398;

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newly added claim 37 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 14 of U.S. Patent No.

6,722,398; newly added claim 38 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent

No. 6,722,398; newly added claim 39 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7 of U.S. Patent

No. 6,722,398; newly added claim 40 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15 and 19 of U.S.

Patent No. 6,722,398; newly added claim 41 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of

U.S. Patent No. 6,722,398; and newly added claim 42 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim

18 of U.S. Patent No. 6,722,398. Although the conflicting claims are not identical, they

are not patentably distinct from each other because the method of using the fluid

servicing apparatus as claimed in the in the instant application take the interpretation

similar to the claims covered in the U.S. Patent No. 6,722,398.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh  
Patent Examiner  
Art Unit 3751

HK  
12/22/2004